

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 25-20059-CR-ALTONAGA/REID(s)

UNITED STATES OF AMERICA

vs.

CHENGZHE WANG,

Defendant.

**THE UNITED STATES OF AMERICA’S RESPONSE IN OPPOSITION TO
DEFENDANT CHENGZHE WANG’S MOTION TO DISMISS THE INDICTMENT**

The United States of America, by and through the undersigned Assistant United States Attorney, hereby submits its response in opposition to defendant Chengzhe Wang’s Motion to Dismiss the Indictment, filed at docket entry 25. For the reasons set forth below, this Court should deny the motion as moot.

FACTUAL BACKGROUND

In June 2023, the State Department received an email through its online tipline. The tip conveyed the following information:

Hello, during July or August and September, people from Xugong Group provided false application materials to apply for a US visa to go to the United States to conduct illegal activities, such as illegally spying on intelligence, illegally obtaining confidential technology in the same industry, etc. Before they went abroad, they received training from China’s Security Intelligence Agency on how to provide false information to deceive US customs to enter the country, how to obtain intelligence in the US, etc.

The tip proceeded to identify two individuals by name and passport number. One of those individuals was defendant Chengzhe Wang. The tip also identified Wang as an Overseas Product

Manager for XCMG Construction Machinery Co.

On January 14, 2025, Wang arrived at the Miami International Airport on an international flight from Mexico City, Mexico, with the intent of boarding a flight leaving the next day for Managua, Nicaragua. In making this trip, Wang possessed a passport issued by the People's Republic of China ("PRC") bearing a number consistent with one identified in the tip.

Upon Wang's entry into the United States, a Customs and Border Protection ("CBP") Officer interviewed Wang. At the time of the preliminary interview, the CBP Officer was familiar with the tip. During this interview, Wang claimed that he had no connection to any foreign government nor was he a member of any Chinese Communist Party organization. He claimed that his employer, XCMG, was a private company. He also claimed that he was a member of the Communist Youth League of China in middle and high school, but that membership was no longer active. The CBP Officer then referred Wang to secondary inspection.

During a search of Wang's electronics, including his cellular phone, CBP Officers discovered a photograph of a badge or credential holder with a seal and wording in Mandarin Chinese inscribing "Administrative Law Enforcement." The photograph appears to depict an official credential or badge case likely for use by PRC law enforcement or other PRC government agency. Additionally, CBP Officers discovered a photograph of a lapel pin bearing a red PRC flag with an inscription written in Mandarin. Open-source research revealed that this pin denotes membership in the Chinese Communist Youth League, a Chinese Communist Party organization. Lastly, CBP Officers discovered a PDF document shared by Wang in a WeChat message in which Wang shared a PDF document titled "Atomic Bomb" with an unknown third party. The PDF

contained 47 pages of schematics, graphs, and diagrams related to nuclear weapons research.

Following the search of Wang's electronics, CBP Officers interviewed Wang once again. During this interview, Wang admitted that his employer, XCMG, was owned by the Chinese government. Wang also admitted to active membership in the Chinese Communist Youth League, a Chinese Communist Party organization. When asked why he initially lied to CBP Officers, Wang stated that XCMG advised him not to disclose these ties to United States authorities. Then, when asked by CBP Officers to explain the "Atomic Bomb" PDF, Wang stated he shared it because he "thought it contained porn pictures." When pressed further regarding whether the PDF contained pornography, Wang responded "No."¹

After speaking with Wang, CBP Officers obtained a typed statement, which Wang signed.

The following exchange occurred:

SPEAKER	STATEMENT
Agent	What is the name of your employer?
Wang	XCMG
Agent	What is your job title position at your employer?
Wang	Production Manager
Agent	What does XCMG sell?
Wang	Heavy machinery
Agent	During the preliminary interview, you stated the company XCMG was a private company. Is this correct?
Wang	Yes
Agent	During the preliminary interview, you changed your statement and stated XCMG is a Chinese government owned company. Is this correct?
Wang	Yes.
Agent	Is XCMG owned by the Chinese Communist Party government?

¹ At the time of the interview, law enforcement had found a single PDF containing schematics related to the making of an atomic bomb. After Wang's arrest, however, law enforcement conducted a more thorough search of Wang's electronics and found a second PDF in which the first few pages contained similar schematics regarding the making of an atomic bomb, but the remainder of the PDF contained images of scantily-clad women. The United States has provided the full extraction of Wang's electronics to the defense in discovery.

Wang	Yes.
Agent	Why were you not truthfully [sp] about XCMG being owned by the Chinese Communist Party government?
Wang	Because my company does not allow us to show the company's relationship with the Chinese government.

Then, later in the interview, the following exchange occurred:

SPEAKER	STATEMENT
Agent	During the basic electronic media search of your cellphone device, a photograph was found dated April 2024, with your hand holding a pin[.] I am showing you this photograph, can you explain what this pin is?
Wang	Communist Youth League of China.
Agent	During the Preliminary interview, you stated you were only a member of the Communist Youth League of China in middle school and high school. Is this correct?
Wang	Yes.
Agent	Are you currently still and [sp] active member of this Communist Youth League of China?
Wang	Yes
Agent	Is the Communist Youth League of China part of the Chinese Communist Party government?
Wang	Yes.

During the interview, Wang stated that he traveled from Seoul, South Korea, to Dallas, Texas, in 2023 for vacation and to visit a friend for three days. However, CBP Officers advised that records related to the 2023 entry, at which time he advised that he was entering the United States to travel to Houston, Texas, to visit a warehouse for three days for business meetings. Wang then changed his statement and claimed that he was traveling to Houston, Texas, for a business meeting but changed his mind upon realizing that Houston was three hours away from Dallas.

RELEVANT PROCEDURAL HISTORY

On February 11, 2025, a federal jury empaneled in the Southern District of Florida returned a one-count indictment against Wang, which charged him with

knowingly and willfully mak[ing] a false, fictitious, and fraudulent statement and representation as to a material fact, in that, during a routine secondary examination and interview, he falsely represented that he had no connection to any foreign government and was not a member of any Chinese Communist Party organization, when, in truth and in fact, as the defendant knew, he did have a connection to a foreign government and was a member of a Chinese, in violation of Title 18, United States Code, Section 1001(a)(2).

[ECF No. 17].

On March 12, 2025, Wang filed a motion to dismiss the indictment [ECF No. 25].

On March 20, 2025, a federal jury empaneled in the Southern District of Florida returned a one-count superseding indictment against Wang, which charged him with

knowingly and willfully mak[ing] a false, fictitious, and fraudulent statement and representation as to a material fact, in that, he falsely represented that his employer is a privately-owned company with no ties to the Chinese government; he was no longer a member of the Communist Youth League of China, which is part of the Chinese government; and that his 2023 trip from Seoul, South Korea, to Dallas, Texas, was for vacation and to visit a friend, when, in truth and in fact, as the defendant knew, his employer is owned by the Chinese government; he is still an active member of the Communist Youth League of China, which is part of the Chinese government; and that his 2023 trip from Seoul, South Korea, to Dallas, Texas, was for the purpose of attending business meetings in Houston, Texas, in violation of Title 18, United States Code, Section 1001(a)(2).

[ECF No. 32].

ARGUMENT

Federal Rule of Criminal Procedure 12(b)(1) authorizes this Court to resolve before trial “any defense, objection, or request that the court can determine without a trial on the merits.” Fed. R. Crim. 12(b)(1). This Court can only resolve a pretrial motion to dismiss the indictment if a “trial of the facts surrounding the commission of the alleged offense would be of no assistance in determining the validity of the defense.” United States v. Covington, 395 U.S. 57, 60 (1969).

As the facts set forth in the “Factual Background” section of this response indicates, the questions posed to Wang and his responses were far more specific than what the February 11, 2025, indictment reflected. To rely solely as to the verbiage within the indictment without consideration of the facts surrounding the commission of the offense would not be a proper basis to resolve a motion to dismiss. Nevertheless, to obviate any concerns regarding the indictment’s drafting, the United States secured a superseding indictment that set forth a more detailed summary of Wang’s false statements. Therefore, the allegations that Wang raised in his motion are now moot.²

CONCLUSION

For the reasons stated above, this Court should deny defendant Chengzhe Wang’s motion to dismiss as moot.

Respectfully submitted,

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² If Wang seeks to file a new motion to dismiss tailored towards the language within the superseding indictment, the United States will file a timely response.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the March 26, 2025, the undersigned electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

A handwritten signature in black ink, appearing to read 'Ajay J. Alexander', written over a horizontal line.

AJAY J. ALEXANDER
Assistant United States Attorney